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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/727,867	12/04/2003	Volker Schafer	041176/270374	7883

26158 7590 03/07/2006

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EXAMINER

EDELL, JOSEPH F

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 03/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/727,867

Applicant(s)

SCHAFFER ET AL.

Examiner

Joseph F. Edell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 December 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 22 and 23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,6-8 and 14-17 is/are rejected.
- 7) ☒ Claim(s) 2-5,9-13 and 18-21 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 12/04/03, 12/20/05
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Claims 22 and 23 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 12 December 2005.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the coil must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an

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application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the magnet being a compound magnet with a permanent magnet and an electromagnet wherein the electromagnet is deenergized is not set forth in the specification.

Claim Objections

4. Claims 3, 12, and 20 are objected to because of the following informalities:
- a. claim 3, line 4, "permanent" should read --permanent magnet--;
 - b. claim 12, line 12, "clamping plate" should read --plate--;
 - c. claim 20, line 12, "clamping plate" should read --plate--.

Appropriate correction is required.

5. Claims 6-9, 11-17, and 19-21 use a "means" clause to recite a claim element as a means for performing a specified function. However, it is unclear whether the applicant is invoking 35 U.S.C. 112, 6th paragraph in using the word "means" in claims 6-9, 11-17, and 19-21. Because "means" has a distinct meaning within the U.S. Patent

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system and patent law in accordance with 35 U.S.C. 112, 6th paragraph ("means plus function"), the applicant should delete or substitute another phrase for "retaining means" and "release means," from claims 6-9, 11-17, and 19-21, as this reference seems unintended in this case. See § MPEP 2183.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1, 6-8, and 14-17 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,688,697 B2 to Baumann et al.

Baumann et al. disclose a head restraint that includes all the limitations recited in claims 1, 6-8, and 14-17. Baumann et al. show a head restraint having a first subassembly 2 (see Fig. 1), a second subassembly 12, a drive 16 with a spring, a magnet 11, and a locking unit with a retainer 9 of the locking unit with pivotable, spring-loaded components including a catch 9S biased toward an open configuration and a retaining element 15 for retaining the catch during a closed configuration wherein the drive is capable of moving the second subassembly forward relative to the first subassembly, the locking unit is capable of having a locked state (Fig. 2a) prior to an

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event of predetermined magnitude to prevent the drive from moving the second subassembly forward and an unlocked state (Fig. 2c) in response to the event of predetermined magnitude such that the locking unit does not prevent the drive from moving the second subassembly, the drive moving the second subassembly forward relative to the first subassembly in response to the event of predetermined magnitude, the magnet arranged so that a magnetic field is operative for maintaining the locking unit in the locked state prior to the event of predetermined magnitude, the drive is in a first configuration (Fig. 2a) during the locked state and biased toward a second configuration (Fig. 2a) to move the second subassembly forward relative to the first subassembly during the unlocked state, and the retainer capable of being acted on by the magnetic field of the magnet thereby retaining the drive in the first configuration and releasing the drive in the unlocked state.

Allowable Subject Matter

8. Claims 2-5, 9-13, and 18-21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

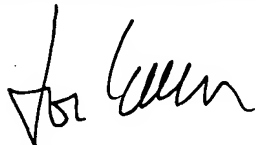
Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to head restraints: U.S. Pat. No. 5,590,933 to Andersson & U.S. Pat. No. 6,352,285 B1 to Schulte et al.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (571) 272-6858. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Joe Edell
March 5, 2006